

ANSELL GRIMM & AARON, P.C.  
1500 Lawrence Avenue  
CN-7807  
Ocean, NJ 07712  
(732) 922-1000  
By: James G. Aaron, Esq. (JA-0729)  
Attorneys for Creditor Raceway Petroleum, Inc.

In the matter of:

JAMES GAMBACORTO and LUZ-MARIE  
GAMBACORTO,

Debtors.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY

Case No. 13-15597  
Hon. Kathryn C. Ferguson  
Chapter 13

AFFIDAVIT OF SERVICES IN  
SUPPORT OF SANCTIONS AS FOUND  
BY THE COURT ON JUNE 12, 2013

State of New Jersey:  
SS  
County of Monmouth:

JAMES G. AARON, being of full age, upon his oath deposes  
and says:

1. I am a Member of the firm of Ansell Grimm & Aaron and have personal knowledge of this matter. I have been admitted to the Bar of the State of New Jersey continuously since 1969. My practice is in the general commercial area, and I have been practicing before the United States Bankruptcy Court for the District of New Jersey for over 40 years.

2. My billing rate is \$400.00 an hour based on my experience in dealing with bankruptcy matters on behalf of both debtors and creditors.

3. The work that was performed for our client, creditor Raceway Petroleum, Inc. ("Raceway"), with regard to the Chapter 13 bankruptcy filed by the Debtor on March 18<sup>th</sup> is summarized as follows and is particularly elucidated by the billing records annexed hereto as **Exhibit A**.

4. As the Court will see from the billing records in Exhibit A, the initial bill in this matter was charged at our regular hourly rates, however, given our long-standing relationship with Raceway and at their request, given that this was the third bankruptcy filed by Mr. Gambacorto in which we have been involved, the Firm agreed to reduce the rates of all the attorneys working on this matter to 300.00 an hour. This change was made in the most recent billings.

5. The Court will also see numerous courtesy credits issued to Raceway on the bills. These were the result of requests from the client and also given in recognition of the long-standing relationship between the client and our firm.

6. As to the work performed in this matter, upon receipt of the Petition, we reviewed the Petition to see if there were deficiencies therein that could lead to the filing of another motion to dismiss. In order to do this, we needed to review the two prior filings of the Debtor and reviewed the motion to dismiss for bad faith filing in Bankruptcy number 1, as well as the Court's Opinion that was rendered in that matter.

7. We then researched the viability of making a motion to dismiss Bankruptcy number 3.

8. Upon notice from the Trustee that there was a 341(a) Meeting of Creditors, we prepared with the client to attend the hearing and question the Debtor at same.

9. An appearance was made at the scheduled 341, however, the Debtor did not appear. The client was billed for that time and paid for the representation of the firm to prepare for the 341 with numerous questions for the debtor, conferring with the Trustee, and traveling to, and waiting, at the 341 hearing, which did not occur.

10. A motion to dismiss the case for bad faith filing was prepared which included reviewing the plan and schedules that were filed by the Debtor, research of legal precedent, as well as contacting the Trustee to arrange for the scheduling of the Trustee's motion to dismiss with the motion that this firm made so that the Court would be able to hear both motions on the same date.

11. The day before the scheduled motion, we received opposition filed by the Debtor. We reviewed the opposition, compared the Debtor's petition to the opposition, reviewed the opposition submitted to the Trustee's motion, and prepared for the argument of the motion.

12. I personally did all of the preparation for the oral argument of the motion on the 12<sup>th</sup>. I did, in fact, confer with Jay Schmerler to make sure our arguments met with our understanding of bankruptcy law, as Mr. Schmerler prepared the original motion to dismiss and did the legal research that is referenced in the motion.

13. I travelled to and appeared in Court on June 12<sup>th</sup>, met with the client, prepared the client as to the arguments, conferred with the Trustee, argued the motion before the Court, and traveled back to the office to prepare this affidavit, pursuant to the Court's directive.

14. As demonstrated by Exhibit A, the total amount of legal fees and costs incurred by the client to date is \$11,461.20, which is comprised of \$11,248.41 in fees and \$212.79 in costs. To date, the client has paid \$3,510.00 of that amount.

15. In addition, I have spent one hour of time in reviewing the file for and the preparation of this application for sanctions as per the Court's directive, resulting in as yet unbilled fees to the client of \$300.00.

15. I submit this Affidavit in support of Raceway's application for fees and costs in the amount of \$11,761.20 (billed and unbilled) which have been incurred to date, for the Court to consider the award for sanctions in the within matter.



JAMES G. AARON

Sworn and subscribed to before  
me this 19th day of June, 2013



MADELINE M. KINZEL  
NOTARY PUBLIC OF NEW JERSEY  
MY COMMISSION EXPIRES APRIL 14, 2016

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(65756-7)\affidavit of services.docx

**EXHIBIT A**

***Ansell Grimm & Aaron***

1500 Lawrence Avenue  
CN7807  
Ocean, NJ 07712 United States

Ph: 732-922-1000

Fax: 732-922-6161

Raceway Petroleum, Inc., MDN Associates  
1411 Stelton Road  
Piscataway, New Jersey  
08854

June 19, 2013

File #: 65756-7

Inv #: Settle

**Attention:**

**RE:** Raceway Petroleum/Gambacorto 3rd Bankruptcy

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Mar-23-13	Review Correspondence from court.	0.10	35.00	LHS
Mar-26-13	Review of partial petition; memo regarding timing of petition	0.40	160.00	JGA
	Review of status of petition and review of timing	0.60	240.00	JGA
Mar-27-13	Review of proof of claim of Red Bank	0.20	80.00	JGA
Apr-01-13	Research bankruptcy filing; review schedules and plans	0.50	162.50	JRS
Apr-02-13	Review of new petition	1.00	400.00	JGA
	Correspond with client - provide documents	0.20	65.00	JRS
Apr-04-13	Review of notice from Bankruptcy Court; letter to client regarding confirmation hearing	0.10	40.00	JGA
	Review of new case regarding status of court judgment and nondischargeability	0.20	60.00	JGA
	Review statute on aerial filing	0.40	130.00	JRS
Apr-09-13	Review of petition; draft memo	1.00	300.00	JGA

	Telephone conference with clients and JGA and JS	0.90	315.00	LHS
	Telephone conference with clients and Shapiro, Esq. and Aaron, Esq.	0.90	292.50	JRS
Apr-10-13	Review orders and filing dates	0.30	97.50	JRS
Apr-11-13	Legal Research regarding tax lien certificate; letter to Red Bank attorney; letter to client requesting information	0.40	160.00	JGA
	Review Red Bank bank tax lien figures	0.20	65.00	JRS
Apr-15-13	Review of documents regarding proof of claim, tax lien purchase; Review of Red Bank attorney claim	0.30	120.00	JGA
Apr-17-13	Review files for proof of claims	0.20	70.00	LHS
	Review correspondence from client as to POC's	0.20	65.00	JRS
	Memo regarding proofs of claim	0.30	97.50	JRS
	Review additinoal correspondence regarding tax liens and proofs of claim	0.20	65.00	JRS
Apr-21-13	Review of new case	0.40	160.00	JGA
Apr-24-13	Review issues regarding 341 hearing	0.50	175.00	LHS
	Telephone conference with Client , Mike regarding 341	0.10	35.00	LHS
	Review file for areas of inquiry - 341 hearing	0.50	150.00	JRS
	Confer with Shapiro, Esq. and review areas for inquiry at 341	0.40	130.00	JRS
Apr-25-13	Travel to and appearance at 341 hearing; Confer with client	2.50	812.50	JRS
Apr-26-13	Review of letter	0.30	90.00	JGA
	Send E-mail Correspondence to client regarding status	0.10	35.00	LHS



	Review correspondence from Shapiro, Esq.	0.20	65.00	JRS
Apr-29-13	Telephone conference with Client s Nick and Mike regarding motions	0.20	70.00	LHS
	Legal research - issue on automatic stay; memo to Shapiro, Esq. and Aaron, Esq.	1.00	300.00	JRS
Apr-30-13	Review of cases; memo as to strategy	0.30	90.00	JGA
	Review of trustee's motion	0.30	90.00	JGA
	Courtesy Credit		-454.09	LHS
	Receipt and review of trustee's Motion to Dismiss	0.20	60.00	JRS
	Correspondence to Trustee to adjourn Motion	0.20	60.00	JRS
	Review memo from Aaron, Esq.	0.20	60.00	JRS
	Review correspondence from Trustee, confer with Shapiro, Esq.	0.30	90.00	JRS
May-01-13	Review and preparation of draft certification for motion to dismiss	0.60	180.00	JGA
	Confer with Aaron, Esq., then Shapiro, Esq. as to timing of Motion	0.20	60.00	JRS
May-02-13	Reivew of prior petitions; preliminary draft of parts of certification	0.70	210.00	JRS
May-03-13	Organize materials necessary to draft Motion; confer w/ L. Shapiro, Esq.	0.40	120.00	JRS
May-05-13	Legal Research - fees and sanctions	0.80	240.00	JRS
	preliminary draft of certificaton of counsel	0.50	150.00	JRS
May-06-13	draft of proposed Order, Certification of Service, and Notice of Motion	0.70	210.00	JRS
	confer w/ L. Shapiro and J. Aaron regarding strategy for Motion	0.30	90.00	JRS
May-07-13	Review of notices; draft memo	0.60	180.00	JGA

	complete draft of Certification of Counsel; organize Exhibits	1.00	300.00	JRS
	Legal Research	0.60	180.00	JRS
	confer w/ L. Shapiro	0.20	60.00	JRS
May-08-13	Finalize and scan all Motion documents and file electronically with Clerk	0.80	240.00	JRS
May-09-13	Review of motion; Review issues of injunction; memo regarding consent order	0.40	120.00	JGA
	Correspondence to Shapiro, Esq.	0.20	60.00	JRS
	Correspond with Aaron, Esq. as to Motion	0.20	60.00	JRS
May-10-13	Review of letter; memo regarding motion and relief sought	0.20	60.00	JGA
	Review of E-mail from client and respond regarding motion	0.10	30.00	LHS
	Correspondence to Trustee to coordinate hearing dates	0.20	60.00	JRS
May-13-13	Confer with Aaron, Esq.	0.20	60.00	JRS
May-14-13	Review of e-mails regarding scheduling; Confer with JRS	0.20	60.00	JGA
	Correspondence from trustee, notice to Aaron, Esq. and Shapiro, Esq.	0.20	60.00	JRS
May-17-13	Review of letter and answer	0.20	60.00	JGA
	Confer with Aaron, Esq.	0.20	60.00	JRS
	Correspondence to Trustee regarding Motions	0.20	60.00	JRS
May-20-13	Confer with Aaron, Esq.	0.20	60.00	JRS
May-21-13	Telephone conference with Client Mike regarding status	0.10	30.00	LHS
May-25-13	Review of letter to client	0.20	60.00	JGA

May-28-13	Review of letter; draft memo	0.30	90.00	JGA
May-29-13	Review of proof of claim; letter to client	0.10	30.00	JGA
May-30-13	Review Bank of America POC	0.20	60.00	LHS
Jun-10-13	Review of documents regarding failure to file reports	0.10	30.00	JGA
	Receipt and review opposition filed by Gambacorta to Motions to dismiss	0.40	120.00	JRS
	Letter to Aaron, Esq. and Shapiro, Esq. with opposition documents	0.20	60.00	JRS
	Confer with Shapiro, Esq.	0.20	60.00	JRS
	Review and send additional emails amongst attorneys and client and court	0.30	90.00	JRS
Jun-11-13	Review of letter regarding motion	0.30	90.00	JGA
	Review of opposition; Review of e-mails; Confer with LHS; e-mails with court regarding scheduling	0.60	180.00	JGA
	Review Pleading , response to our motion to dismiss	0.50	150.00	LHS
	Review of E-mail from client	0.10	30.00	LHS
	Organize file for motion; letter to court requesting Motion to proceed	0.30	90.00	JRS
	Letter to Court and to client - time for oral argument	0.20	60.00	JRS
Jun-12-13	Review of late opposition; Review of motion to dismiss; Review of trustee motion; preparation for oral argument; travel to and attendance at court hearing; meeting with client; Review of 2011 order; oral argument and conference with client	6.00	1,800.00	JGA
	Confer w/ Jim Aaron on account legal strategy for oral argument on account Motion	0.30	90.00	JRS
	telconf. w/ J. Aaron regarding results of Motion.	0.20	60.00	JRS

Totals	37.00	\$11,702.50
Courtesy Credit		454.09
Total Fees After Discount		\$11,248.41

# **DISBURSEMENTS**

	Miscellaneous costs including photocopies, telephone, postage, mileage and faxes	189.11
Mar-25-13	Westlaw	12.48
May-06-13	PACER Internet Charges	11.20
Totals		\$212.79

<b>Total Fee &amp; Disbursements for all charges on this matter</b>	<b>\$11,461.20</b>
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# **PAYMENT DETAILS**

Jun-10-13	Parthenon Petroleum, Inc.	65756-7/Raceway/Fees	3,510.00
<b>Total Payments</b>			<b>\$3,510.00</b>